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UNITED STATES DISTRICT COURT

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WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

JAMES M. THORNTON,
Plaintiff

CIVIL ACTION
SECTION "P"
NO. 1:14-CV-00447

VERSUS

UNITED STATES OF AMERICA,
Defendant

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the court is a complaint filed by James M. Thornton ("Thornton") on February 24, 2014 pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 2671-2680 (Doc. 1), and amended on March 18, 2014 (Doc. 5). The sole defendant is the United States of America ("USA") (Doc. 10). Thornton alleges that, while he was confined in the Federal Correctional Institution in Pollock, Louisiana ("FCI-Pollock") in April 2012, he was denied appropriate medical care for a ruptured Achilles tendon (Doc. 5). For relief, Thornton asks for a jury trial, monetary damages and costs (Docs. 1, 5). Thornton is presently confined in FCI-Danbury in Danbury, Connecticut.

The USA answered the complaint (Doc. 16) and filed a motion for summary judgment (Doc. 25). Thornton opposed the motion for summary judgment (Doc. 27) and the USA filed a reply (Doc. 28).

The sole ground for summary judgment raised by the defendant is that Thornton has not named an expert witness to assist him in proving that the medical staff who examined or treated him at FCI-Pollock committed medical malpractice. However, Thornton has now provided the names of two people he proposes to introduce as expert witnesses (Doc. 34).

Accordingly, the government's motion for summary judgment should be denied as moot.

Conclusion

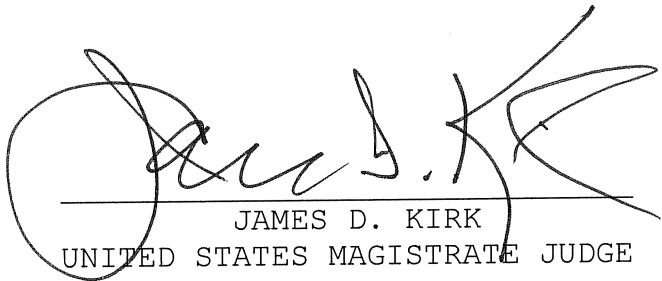
Based on the foregoing discussion, IT IS RECOMMENDED that the defendant's motion for summary judgment (Doc. 25) be DENIED AS MOOT.

Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed.R.Civ.P. 72(b), the parties have **fourteen (14) days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **fourteen (14) days** after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the district judge before he makes a final ruling.

A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT
WITHIN FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE
SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR,
FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL
FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 26th
day of May 2015.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE